

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tarlee Sonie	Team: Squad #09	CCRB Case #: 202104657	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/29/2021 2:00 AM	Location of Incident: 69th Precinct Stationhouse	Precinct: 69	18 Mo. SOL 1/29/2023	EO SOL 1/29/2023	
Date/Time CV Reported Thu, 07/29/2021 2:45 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 08/06/2021 10:44 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Alvin Askew	17602	929659	115 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Kiada Moragne	03286	947272	069 PCT
2. PO Cassandra Barnwell	12801	960204	069 PCT
3. PO Rosemary Gallardo	19282	967882	069 PCT
4. PO Buddhadeb Biswas	25570	962259	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Alvin Askew	Abuse: Police Officer Alvin Askew did not process § 87(2)(b) complaint regarding (an) officer(s).	
B. PO Alvin Askew	Abuse: Police Officer Alvin Askew threatened to remove § 87(2)(b) to the hospital.	
C. PO Alvin Askew	Abuse: Police Officer Alvin Askew threatened to arrest § 87(2)(b)	

## Case Summary

On July 29, 2021, § 87(2)(b) filed the following complaint with the NYPD's Internal Affairs Bureau, which was received at the CCRB on August 6, 2021, under log# § 87(2)(b).

On July 29, 2021, at approximately 2:00 am, § 87(2)(b) entered the 69<sup>th</sup> Precinct stationhouse to file a complaint against an officer. Sergeant Alvin Askew, of the 69<sup>th</sup> Precinct, walked from behind the command desk and told § 87(2)(b) that he could not take his complaint (**Allegation (A) Abuse of Authority: Refusal to process civilian complaint,** § 87(2)(g)). He also told § 87(2)(b) that he could not record in the stationhouse and that he had to leave if he wished to continue recording and threatened to call Emergency Medical Services (EMS) to have § 87(2)(b) removed based on his perceived mental health (**Allegation (B) Abuse of Authority: Threat re: removal to hospital,** § 87(2)(g)). Sgt. Askew informed § 87(2)(b) that he would be arrested if he continued to record in the stationhouse (**Allegation (C) Abuse of Authority: Threat of arrest,** § 87(2)(g)). § 87(2)(b) was then escorted out of the 69<sup>th</sup> Precinct stationhouse by PO Cassandra Barnwell and PO Buddhadeb Biswas also of the 69<sup>th</sup> precinct.

On October 1, 2021, the investigation obtained six body-worn camera video files captured by the BWCs of PO Cassandra Barnwell, PO Buddhadeb Biswas, PO Rosemary Gallardo, and Sergeant Kiada Moragne, all of the 69<sup>th</sup> precinct (**Board Review, 07-10**).

Since the incident in question, then-Sergeant Askew's rank changed to Police Officer.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Alvin Askew did not process § 87(2)(b) complaint regarding an officer.**

It is undisputed that § 87(2)(b) entered the 69<sup>th</sup> precinct stationhouse on July 29, 2021 and spoke with Sgt. Askew about filing a complaint against an officer. Furthermore, it is undisputed that § 87(2)(b) was not afforded the opportunity to file his complaint against an officer while at the stationhouse.

Sgt. Askew stated in his CCRB interview that after § 87(2)(b) requested to file the complaint, he called the Internal Affairs Bureau (IAB), spoke with a Sergeant, and was told that IAB refused to take any complaints from § 87(2)(b) due to him being a habitual complainant. Sgt. Askew then informed § 87(2)(b) that he could not take his complaint and provided § 87(2)(b) with IAB's phone number (**Board Review, 02**).

Patrol Guide 207-31 states that, upon receipt of a complaint from a civilian alleging misconduct by a uniformed member of the service, members of the service should report all misconduct complaints including unnecessary use of force, abuse of authority, discourtesy, offensive language, etc. to the Civilian Complaint Review Board.

2a. For complaints made in person, members of the service receiving the complaint should interview complainants, give complainants first copy of Civilian Complaint Report, furnish assistance or allow other personnel to assist in preparing the form, and have complainant sign form under appropriate caption and have representative or person assisting, if any, sign form under caption "details." (**Board Review, 11**)

Given that Sgt. Askew was informed by § 87(2)(b) that he wanted to file a complaint against an officer, it was Sgt. Askew's duty to inform § 87(2)(b) that he could file his complaint at the stationhouse and assist him in the process of filing his complaint as required by Patrol Guide 207-31. Because Sgt. Askew never offered § 87(2)(b) the opportunity to make a complaint at the stationhouse and did not take a report from § 87(2)(b) § 87(2)(g).

**Allegation (B) Abuse of Authority: Sergeant Alvin Askew threatened to remove § 87(2)(b) to the hospital.**

In his CCRB interview, § 87(2)(b) explained that Sgt. Askew informed him that he would be "arrested and admitted to the hospital" for evaluation if he did not leave the stationhouse. **(Board Review, 01)**

PO Gallardo's BWC video depicts Sgt. Askew say, "Alright listen, I'm gonna call ESU and it's going to be a problem." § 87(2)(b) responds, "If you're gonna call ESU then do that, but I'm letting you know that I'm here to make a complaint, that's all I'm here to do." At minute 04:18 Sgt. Askew says "Call the bus," in reference to Emergency Medical Services (EMS) **(Board Review, 08)**.

During his CCRB interview, Sgt. Askew explained that at some point during his interaction with § 87(2)(b) § 87(2)(b) took out his phone and began recording. Sgt. Askew informed § 87(2)(b) that he could not record in the stationhouse and had to leave the stationhouse. § 87(2)(b) refused the request and continued to record. Sgt. Askew stated that he told § 87(2)(b) he would call "ESU" because he was questioning § 87(2)(b) mental state and § 87(2)(b) non-compliance with orders to leave the stationhouse and stop recording on his cell phone led him to believe that § 87(2)(b) could be a threat. Sgt. Askew elaborated that he questioned § 87(2)(b) mental state because § 87(2)(b) failed to comply with a lawful order to stop recording. As such, it led him to believe that § 87(2)(b) might be having issues outside of his help and he classified § 87(2)(b) as an emotionally disturbed person (EDP) as a result **(Board Review, 02)**.

Patrol Guide 221-13 states an officer may remove a civilian to a hospital involuntarily when the officer, "reasonably believes that a person who is apparently mentally ill or emotionally disturbed, must be taken into protective custody because the person is conducting himself in a manner likely to result in a serious injury to himself or others." **(Board Review, 12)**

Sgt. Askew calling § 87(2)(b) mental state in question because he refused to comply with a lawful order was not sufficient justification. § 87(2)(b) non-compliance does not inherently necessitate an EDP classification under the provisions of *Patrol Guide 221-13*. Furthermore, outside of that same noncompliance, Sgt. Askew failed to communicate a reason to believe that § 87(2)(b) was "likely" a threat to officers.

§ 87(2)(g)

**Allegation (C) Abuse of Authority: Sergeant Alvin Askew threatened to arrest § 87(2)(b)**

§ 87(2)(b)



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- Due to a mediation hiatus, this case could not be sent to mediation.
- As of March 28, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (**Board Review 06**)

- [illegible]

Reviewer: \_\_\_\_\_

Signature	Print Title & Name	Date
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